

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA, :
: 19-CR-00139 (RJD)
:
v. :
: 225 Cadman Plaza
ANDRE WILBURN, : Brooklyn, New York
:
Defendant. : October 24, 2019
-----X

TRANSCRIPT OF CRIMINAL CAUSE FOR GUILTY PLEA
BEFORE THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: VIRGINIA NGUYEN, ESQ.
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

For the Defendant: JAMES DARROW, ESQ.
Federal Defenders of New York
One Pierrepont Plaza
16th Floor
Brooklyn, New York 11201

Court Transcriber: RUTH ANN HAGER, C.E.T.**D-641
TypeWrite Word Processing Service
211 North Milton Road
Saratoga Springs, New York 12866

Proceedings recorded by electronic sound recording, transcript
produced by transcription service.

1 (Proceedings began at 1:46 p.m.)

2 THE CLERK: Criminal cause for guilty plea, docket
3 number 19-CR-00139, United States of America v. Andre Wilburn.
4 Counsel, please state your appearances for the record.

5 MS. NGUYEN: Good afternoon, Your Honor. Virginia
6 Nguyen appearing on behalf of the United States.

7 MR. DARROW: Good afternoon. James Darrow, Federal
8 Defenders of New York, for Mr. Wilburn, who is present to my
9 left, Your Honor.

10 THE CLERK: The Honorable Lois Bloom presiding.

11 THE COURT: Good afternoon, Mr. Wilburn.

12 THE DEFENDANT: Good afternoon, Your Honor.

13 THE COURT: Mr. Wilburn, as you may know, this case
14 has been assigned to Judge Dearie and he is the judge who will
15 make the ultimate decision as to whether or not he should
16 accept your guilty plea. And if he does accept your guilty
17 plea, he will sentence you. You have the absolute right to
18 have Judge Dearie listen to your plea without any prejudice to
19 you. Do you understand?

20 THE DEFENDANT: Yes.

21 THE COURT: If you wish, I will listen to your plea
22 today and a transcript will be made and Judge Dearie will
23 review the transcript in connection with your sentence. So
24 these proceedings are being digitally sound-recorded. I need
25 you to answer all questions with your voice loudly so that

1 your answer will be reflected on the Court's record. Do you
2 understand?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: I have before me, Mr. Wilburn, a form
5 reflecting that you have consented to have me hear your plea.
6 I am going to pass it forward and have my law clerk show it to
7 you and I'm going to ask, is this your signature on the
8 consent form? Is that your signature, Mr. Wilburn?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And did you discuss this form with your
11 attorney before you signed it?

12 THE DEFENDANT: Yes, I did.

13 THE COURT: And did you understand the form?

14 THE DEFENDANT: Yes, I understand the form.

15 THE COURT: Mr. Wilburn, do you give your consent to
16 have me hear your plea voluntarily and of your own free will?

17 THE DEFENDANT: Yes.

18 THE COURT: Have any threats or promises been made
19 to you to induce you to agree to have me take your plea here
20 today?

21 THE DEFENDANT: No.

22 THE COURT: Then I am going to sign this and I note
23 that Mr. Darrow, although he has a small signature, has signed
24 the form, as has Ms. Nguyen, and it is dated 10/24, today.

25 Mr. Wilburn, I'm advised by your attorney that you

1 wish to plead guilty to two counts in the indictment: Count
2 II, access device fraud; and Count VI, aggravated identity
3 theft. Is that correct that you wish to plead guilty to these
4 counts in the indictment?

5 THE DEFENDANT: Yes.

6 THE COURT: This is a serious decision and the Court
7 must be certain that you understand your rights and the
8 consequences of your plea. I'll explain certain matters to
9 you and ask you to answer certain questions. If I say
10 anything that you do not understand, please tell me and I'll
11 reword the question. Is that clear?

12 THE DEFENDANT: Yes.

13 THE COURT: Will the clerk please swear the
14 defendant?

15 THE CLERK: Mr. Wilburn, please raise your right
16 hand.

17 ANDRE WILBURN, Sworn

18 THE COURT: Thank you, Mr. Wilburn. Can you --
19 you've just taken an oath to tell the truth. Do you
20 understand that if you answer any of the questions I ask you
21 falsely your answers may later be used against you in another
22 criminal prosecution for perjury or for making a false
23 statement?

24 THE DEFENDANT: Yes.

25 THE COURT: What is your full name, sir?

1 THE DEFENDANT: Andre Wilburn.

2 THE COURT: And how old are you?

3 THE DEFENDANT: Thirty-four.

4 THE COURT: And what schooling or education have you
5 had, Mr. Wilburn?

6 THE DEFENDANT: I attended Morris High School in the
7 Bronx.

8 THE COURT: Did you graduate?

9 THE DEFENDANT: Yes.

10 THE COURT: Have you had any difficulty in
11 communicating with your attorney?

12 THE DEFENDANT: No.

13 THE COURT: And Mr. Darrow, have you had any
14 difficulty in communicating with Mr. Wilburn?

15 MR. DARROW: No, Your Honor.

16 THE COURT: Mr. Wilburn, are you presently or have
17 you recently been under the care of a doctor or a
18 psychiatrist?

19 THE DEFENDANT: No.

20 THE COURT: Have you ever been hospitalized or
21 treated for any mental illness?

22 THE DEFENDANT: No.

23 THE COURT: Have you ever been hospitalized or
24 treated for an addiction to drugs, alcohol or any other
25 substance?

1 THE DEFENDANT: No.

2 THE COURT: In the past 24 hours have you taken any
3 pills, medicine or drugs of any kind?

4 THE DEFENDANT: Multi-vitamin.

5 THE COURT: Anything besides multi-vitamin?

6 THE DEFENDANT: No.

7 THE COURT: In the past 24 hours have you taken --
8 have you drank any alcoholic beverage?

9 THE DEFENDANT: No.

10 THE COURT: Is your mind clear as you stand before
11 the Court today, sir?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Do you understand the nature of these
14 proceedings today?

15 THE DEFENDANT: Yes.

16 THE COURT: Mr. Darrow, have you discussed the
17 question of a guilty plea with your client?

18 MR. DARROW: Yes, Your Honor.

19 THE COURT: In your view does he understand the
20 rights he would be waiving by pleading guilty?

21 MR. DARROW: Yes, Your Honor.

22 THE COURT: And is he capable of understanding the
23 nature of these proceedings?

24 MR. DARROW: I believe he is, Your Honor.

25 THE COURT: Do you have any doubts as to

1 Mr. Wilburn's competency to proceed today?

2 MR. DARROW: No doubts, Your Honor.

3 THE COURT: Have you advised Mr. Wilburn of the
4 penalties that can be imposed and discussed the applicable
5 sentence and considerations including the sentencing
6 guidelines with him?

7 MR. DARROW: Yes, Your Honor.

8 THE COURT: Mr. Wilburn, have you had an opportunity
9 to discuss your case with your attorney?

10 THE DEFENDANT: Yes, I have.

11 THE COURT: And are you satisfied with the
12 assistance your attorney has given you thus far in this
13 matter?

14 THE DEFENDANT: Yes.

15 THE COURT: Mr. Wilburn, have you received a copy of
16 the indictment?

17 THE DEFENDANT: I have.

18 THE COURT: Have you consulted with your attorney
19 about the charges you will be pleading guilty to?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand the charges against
22 you?

23 THE DEFENDANT: Yes, I do.

24 THE COURT: It is very important that you understand
25 that you have a right to plead not guilty to this indictment

1 and to persist in that plea? Under the Constitution and laws
2 of the United States you would then have a right to a speedy
3 trial before a jury with the assistance of your attorney and
4 that trial would be a public trial. Do you understand?

5 THE DEFENDANT: Yes.

6 THE COURT: You are presumed to be innocent and you
7 would not have to prove that you were innocent. At trial the
8 burden is on the Government to prove beyond a reasonable doubt
9 that you are guilty of the crime charged. Do you understand?

10 THE DEFENDANT: Yes.

11 THE COURT: On Count II, access device fraud, the
12 Government would have to prove beyond a reasonable doubt that
13 you knowingly and willfully and with intent to defraud use one
14 or more access devices, here credit cards, issued to another
15 person or persons during any one-year period and in doing so
16 you obtained anything of value amounting to \$1,000 or more and
17 that interstate or foreign commerce was affected by your
18 actions.

19 On Count VI, aggravated identity theft, the
20 Government would have to prove beyond a reasonable doubt that
21 you knowingly used, transferred or possessed a means of
22 identification of another person to-wit, a credit card account
23 number, that you used the means of identification during and
24 in relation to the offense of access device fraud and that you
25 acted without lawful authority.

1 If the Government fails to present sufficient
2 evidence to prove the elements of these crimes as charged, the
3 jury would have the duty to find you not guilty. Do you
4 understand?

5 THE DEFENDANT: Yes.

6 THE COURT: In the course of a trial witnesses for
7 the Government would have to come to court and testify in your
8 presence. Your lawyer would have the right to cross-examine
9 these witnesses, to object to the evidence offered by the
10 Government and to offer evidence in your behalf. You would
11 also have the right to compel the attendance of witnesses at
12 trial. Do you understand?

13 THE DEFENDANT: Yes.

14 THE COURT: Although you have the right to testify
15 at a trial, you cannot be compelled to testify and incriminate
16 yourself. If you decided not to testify, the Court would
17 instruct the jury that they could not hold that against you.
18 Do you understand?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: If you plead guilty, I will ask you
21 questions about what you did in order to satisfy myself that
22 you are guilty of the charge to which you seek to plead guilty
23 and you will have to answer my questions and acknowledge your
24 guilt. Thus, you will be giving up the right that I have just
25 described. That is, the right not to say anything that would

1 show that you are guilty of the crime with which you are
2 charged. Do you understand?

3 THE DEFENDANT: Yes.

4 THE COURT: If you plead guilty and the Court
5 accepts your guilty plea you will be giving up your right to a
6 trial and all the other rights I have just discussed with you.
7 There will be no trial and the Court will simply enter a
8 judgment of guilty based on your plea. Do you understand?

9 THE DEFENDANT: Yes.

10 THE COURT: Mr. Wilburn, are you willing to give up
11 your right to a trial and the other rights I have just
12 discussed with you?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Is there an agreement pursuant to which
15 this plea is being offered, Ms. Nguyen?

16 MS. NGUYEN: Yes, Judge.

17 THE COURT: And is it this Plea Agreement that's
18 marked as Court Exhibit 1?

19 MS. NGUYEN: Yes.

20 THE COURT: Then I am going to hand this down to
21 you, Mr. Wilburn, and I'd like you to look at every page to
22 make sure it is the agreement you have reviewed and then
23 please tell me if it is your signature on Page 7.

24 THE DEFENDANT: Okay.

25 THE COURT: Ms. Nguyen, while they're looking at

1 this, I did not check the agreement that was handed out to see
2 that the date was changed. This was originally scheduled for
3 a different date. Was that changed in the agreement?

4 MS. NGUYEN: It was, Your Honor.

5 THE COURT: So the date that he is getting credit
6 for taking the plea, he's within the time that the Plea
7 Agreement sets?

8 MS. NGUYEN: That is correct.

9 THE COURT: Thank you.

10 THE DEFENDANT: Um-hum.

11 THE COURT: So again, I'm just going to ask. Is
12 that your signature on Page 7 of the agreement?

13 THE DEFENDANT: Yes.

14 THE COURT: And is that the agreement that you
15 reviewed with your attorney before you signed?

16 THE DEFENDANT: Yes, it is.

17 THE COURT: And do you understand the agreement?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: Even though you have gone through the
20 agreement with Mr. Darrow I am just going to summarize the
21 agreement for the purposes of today's proceeding.

22 You are pleading guilty to Counts II and VI of the
23 indictment charging you with the violation of Title XVIII,
24 United States Code, Section 1029(a)(5) and Title XVIII, United
25 States Code, Section 1028(A).

1 In exchange the Government agrees that no further
2 criminal charges will be brought against you for conspiracy to
3 commit access device fraud, access device fraud conspiracy to
4 commit wire fraud and wire fraud as charged in the indictment
5 from in or about and between April 2016 and July 2018, it
6 being understood that this agreement does not bar the use of
7 such conduct as a predicate act or as the basis for sentencing
8 enhancement in a subsequent prosecution. Do you understand?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: If you plead guilty today an additional
11 one-level reduction will be warranted. Do you understand?

12 THE DEFENDANT: Yes.

13 THE COURT: The United States Attorney -- the United
14 States Attorney Office will take no position concerning where
15 within the guidelines range determined by the Court your
16 sentence should fall and will make no motion for an upward
17 departure under the Sentencing Guidelines. At the time of
18 sentence, the Office will move to dismiss the remaining counts
19 of the indictment with prejudice. Do you understand?

20 THE DEFENDANT: Yes.

21 MR. DARROW: Your Honor, if I could just offer one
22 additional thing.

23 THE COURT: Yes.

24 MR. DARROW: The parties I think have stipulated
25 that within the meaning of that paragraph 5(b) restricting the

1 Government from arguing for an upward departure, that language
2 encompasses, we understand, a similar argument for an upward
3 variance within the guidelines.

4 THE COURT: Is that correct, Ms. Nguyen?

5 MS. NGUYEN: That is correct based on the legal
6 definition of upward departure.

7 THE COURT: So that's now on the record.

8 MR. DARROW: Thank you, Your Honor.

9 THE COURT: Thank you.

10 Mr. Wilburn, you further agree not to file an appeal
11 or otherwise challenge the conviction or sentence in the event
12 that the Court imposes a term of imprisonment of 70 months or
13 below? Do you understand?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Should it be judged by the office that
16 you have violated any provision of the Plea Agreement, you
17 will not be released from your plea of guilty, but the Office
18 will be relieved of its obligations under this agreement. Do
19 you understand?

20 THE DEFENDANT: Yes.

21 THE COURT: The agreement does not bind any federal,
22 state or local prosecuting authority, other than the United
23 States Attorneys Office, and does not prohibit the Office from
24 initiating or prosecuting any civil or administrative
25 proceedings directly or indirectly involving you. Do you

1 understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Does the written agreement I've
4 summarized reflect your understanding of the agreement that
5 you've entered into with the Government?

6 THE DEFENDANT: Yes, it does.

7 THE COURT: Apart from any written proffer
8 agreements if applicable, as well as the promises contained in
9 the written agreement discussed here today, has anyone made
10 any other promise to you that has caused you to plead guilty?

11 THE DEFENDANT: No.

12 THE COURT: Has anyone made any promise to you as to
13 what your sentence will be?

14 THE DEFENDANT: No.

15 THE COURT: Mr. Wilburn, let me discuss the
16 consequences of your pleading guilty here today. You're
17 pleading guilty to Counts II and VI of the indictment, as
18 we've just discussed. Under Count II the statute that you are
19 pleading guilty to provides for a zero year minimum and a 15-
20 year maximum term of imprisonment. Do you understand?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: There is a maximum supervised release
23 term of three years, which will follow any term of
24 imprisonment and if a condition of release is violated you may
25 be sentenced of up to two years without credit for pre-release

1 imprisonment or time previously served on post-release
2 supervision, even if the violation occurs close to the end of
3 the supervised period. Do you understand?

4 THE DEFENDANT: Yes.

5 THE COURT: The maximum fine is \$250,000 or twice
6 the pecuniary gain or loss. Do you understand?

7 THE DEFENDANT: yes.

8 THE COURT: Restitution is mandatory and the full
9 amount of each victim's losses as determined by the Court. Do
10 you understand?

11 THE DEFENDANT: Yes.

12 THE COURT: There is also \$100 special assessment
13 that must be paid to the Court on or before the sentencing.
14 Do you understand?

15 THE DEFENDANT: Yes.

16 THE COURT: For Count VI, aggravated identity theft,
17 the statute you are pleading guilty to provides for a two-year
18 minimum and a two-year maximum term of imprisonment. Do you
19 understand?

20 THE DEFENDANT: Yes.

21 THE COURT: There is a maximum supervised release
22 term of one year, which will follow any term of imprisonment,
23 and if a condition of release is violated you may be sentenced
24 of up to one year without credit for pre-release imprisonment
25 or time previously served on post-release supervision, even if

1 the violation occurs close to the end of the supervised
2 period. Do you understand?

3 THE DEFENDANT: Yes.

4 THE COURT: The maximum fine is \$250,000 or twice
5 the gross gain or gross loss. Do you understand?

6 THE DEFENDANT: Yes.

7 THE COURT: Restitution is not applicable for this
8 count, but there is a \$100 special assessment that must be
9 paid on or before the date of sentence. Do you understand?

10 THE DEFENDANT: Yes.

11 THE COURT: Mr. Wilburn, if you are not a citizen of
12 the United States of America, because of the crime that you
13 are pleading guilty to, removal from the United States is
14 presumptively mandatory. Removal and other immigration
15 consequences are the subject of a separate proceeding.
16 However, you must understand that no one, including your
17 attorney, the prosecutor or the district court can predict
18 with certainty the effect of your conviction on your
19 immigration status. You must affirm that you understand that
20 if you are not a citizen of the United States of America, by
21 pleading guilty there will be mandatory immigration
22 consequences and you will be removed from the United States of
23 America and you will not be permitted to re-enter the United
24 States of America. Do you understand?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you affirm that you want to plead
2 guilty despite the immigration consequences if you are not a
3 citizen of the United States?

4 THE DEFENDANT: Yes.

5 THE COURT: In determining what sentence to impose
6 Judge Dearie will consider the guidelines issued by the United
7 States Sentencing Commission and the other factors specified
8 by Section 3553(a) of Title XVIII to determine whether to
9 impose a sentence within that range. These other factors
10 considered include the nature and circumstances of the crimes
11 committed with characteristics and history and the public
12 interest in the sentence. Prior to sentencing the Court will
13 receive a pre-sentence report containing information about
14 these factors and the guidelines. You and your lawyer will
15 have the opportunity to see that report and to speak on your
16 behalf at sentencing. Do you understand?

17 THE DEFENDANT: Yes.

18 THE COURT: Have you and your attorney, Mr. Wilburn,
19 spoken about how the Sentencing Commission Guidelines might
20 apply to your case?

21 THE DEFENDANT: Yes, we have.

22 THE COURT: Although the guidelines are advisory has
23 the Government estimated what the sentencing guideline range
24 is likely to be?

25 MS. NGUYEN: Yes, Your Honor. The aggregate

1 sentencing guidelines range would be 57 to 65 months under the
2 Government's estimate and that accounts for what is required
3 by statute is that the sentence imposed on Count II run
4 consecutive to the sentence imposed on Count VI.

5 THE COURT: And is that your estimate as well,
6 Mr. Darrow?

7 MR. DARROW: Your Honor, I think I anticipate we may
8 be disagreeing as to loss amount and so that will bring the
9 fraud guideline down, but we anticipate either resolving those
10 issues before sentencing or, if necessary, litigating them
11 before Judge Dearie.

12 THE COURT: Do you want to put your estimate of what
13 you believe the guideline range would likely be on the record?

14 MR. DARROW: Not at this time only because I don't
15 have a basis for where they actually end up falling. Thank
16 you.

17 THE COURT: But you disagree to some extent with the
18 Government's estimate?

19 MR. DARROW: I anticipate that I may, Your Honor,
20 yes.

21 THE COURT: So Mr. Wilburn, keep in mind that these
22 are just estimates and they could be wrong. Judge Dearie will
23 calculate the guideline range and determine whether to follow
24 or depart from the applicable guideline range. If your
25 sentence is higher than you expect it to be, you will not be

1 able to withdraw your guilty plea. Is that clear?

2 THE DEFENDANT: Yes.

3 THE COURT: In addition to imprisonment, you will be
4 sentenced to a term of supervised release. Supervised release
5 means that after you are released from prison your activities
6 will be supervised by the Probation Department and there may
7 be many restrictions placed on your liberty, such as travel
8 limitations, requirements that you report regularly to a
9 probation officer, prohibitions on carrying guns and the like.
10 Do you understand the nature of supervised release?

11 THE DEFENDANT: Yes.

12 THE COURT: If you violate the conditions of the
13 release you can be returned to prison, even if the violation
14 occurs close to the end of the supervised period. So if you
15 don't follow the conditions of supervised release your prison
16 term could be lengthened without credit for pre-release
17 imprisonment or time previously served on post-release
18 supervision. Do you understand?

19 THE DEFENDANT: Yes.

20 THE COURT: If after you are sentenced you or your
21 attorney thinks that the Court has not properly followed the
22 law in sentencing you, you can appeal your sentence to a
23 higher court. However, you have agreed not to file an appeal
24 or otherwise challenge the conviction or sentence in the event
25 the Court imposes a term of imprisonment of 70 months or

1 below. By pleading guilty here today you will not, except
2 under rare and limited circumstances, be able to challenge
3 your judgment of conviction. Do you understand?

4 THE DEFENDANT: Yes.

5 THE COURT: Mr. Wilburn, do you have any questions
6 you would like to ask me about the charge, your rights or
7 anything else relating to this matter?

8 THE DEFENDANT: No.

9 THE COURT: Is everything clear to you, sir?

10 THE DEFENDANT: Yes.

11 THE COURT: Mr. Darrow, do you know of any reason
12 why your client should not enter a plea of guilty?

13 MR. DARROW: No, Your Honor.

14 THE COURT: Are you aware of any viable, legal
15 defenses to the charge?

16 MR. DARROW: No, Your Honor.

17 THE COURT: Mr. Wilburn, are you ready to plead?

18 THE DEFENDANT: Yes.

19 THE COURT: Mr. Wilburn, how do you plead to Count
20 II of the indictment; guilty or not guilty?

21 THE DEFENDANT: Guilty.

22 THE COURT: Mr. Wilburn, how do you plead to Count
23 VI of the indictment; guilty or not guilty?

24 THE DEFENDANT: Guilty.

25 THE COURT: Are you making this plea of guilty

1 voluntarily and of your own free will?

2 THE DEFENDANT: Yes.

3 THE COURT: Has anyone threatened or forced you to
4 plead guilty?

5 THE DEFENDANT: No.

6 THE COURT: Other than the written agreement with
7 the Government discussed on the record here today has anyone
8 made you any promise that has caused you to plead guilty?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: Has anyone made you any promise,
11 Mr. Wilburn, about the sentence you will receive?

12 THE DEFENDANT: No.

13 THE COURT: Mr. Wilburn, please describe briefly in
14 your own words what you did in connection with the crime to
15 which you are pleading guilty.

16 MR. DARROW: Your Honor, if we may, Mr. Wilburn and
17 I have prepared a written allocution.

18 THE COURT: That's fine.

19 MR. DARROW: Would it be all right for him to read
20 it?

21 THE COURT: Certainly.

22 MR. DARROW: Thank you.

23 THE DEFENDANT: "Between April of 2016 and July 2018
24 I used a credit card number. I obtained more than \$1,000. I
25 did so knowingly and with the intent to defraud. I bought the

1 credit card number believing it was associated with a real
2 person. I did so without lawful authority."

3 MR. DARROW: And in addition, Your Honor, the
4 defense would stipulate that the Government could prove beyond
5 a reasonable doubt at trial the following things: that a
6 credit card number is an access device, the legal definition;
7 that interstate commerce was effected by Mr. Wilburn's
8 actions; that a credit card account number is, in fact, a
9 means of identification of another person within the statutory
10 meaning of the aggravated identity theft statute; we would
11 also stipulate that the \$1,000 amount was obtained in a one-
12 year period; and we'd stipulate to venue being appropriately
13 in the Eastern District of New York.

14 THE COURT: Ms. Nguyen, does that resolve any
15 follow-up questions that would need to be asked?

16 MS. NGUYEN: It does, Your Honor.

17 THE COURT: So are there any other questions or any
18 further allocution with respect to the plea that's required?

19 MS. NGUYEN: Not -- no, Your Honor.

20 THE COURT: And was there anything else, Mr. Darrow,
21 that you believe needed to be addressed?

22 MR. DARROW: No, Your Honor. I think that's
23 sufficient.

24 THE COURT: So Mr. Wilburn, based on the information
25 given to me today I find that you, Andre Wilburn, is

1 competent, that you are acting voluntarily, that you fully
2 understand the charges against you, your rights and the
3 consequences of your plea, and that there is a factual basis
4 for your guilty plea.

5 I therefore recommend that Judge Dearie should
6 accept your plea of guilty and when this was last scheduled,
7 the date that had been given to me was that Judge Dearie had
8 set January 22, 2020 at 11:15 as Mr. Wilburn's sentencing
9 date. So just confirm that with Judge Dearie's chambers.

10 MS. NGUYEN: Yes, Your Honor.

11 THE COURT: Ms. Nguyen, was there any other matter
12 that needed to be addressed on behalf of the United States
13 today?

14 MS. NGUYEN: No, Judge.

15 THE COURT: And Mr. Darrow, was there anything
16 further that needed to be addressed on behalf of Mr. Wilburn
17 today?

18 MR. DARROW: Nothing from the defense. Thank you,
19 Your Honor.

20 THE COURT: Good luck. This matter is adjourned.

21 MS. NGUYEN: Thank you.

22 (Proceedings concluded at 2:13 p.m.)

23 * * * * *

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25

1 I certify that the foregoing is a court transcript
2 from an electronic sound recording of the proceedings in the
3 above-entitled matter.

A handwritten signature in black ink, appearing to read "Ruth Ann Hager", is written over a horizontal line.

6 Ruth Ann Hager, C.E.T.**D-641

7 Dated: November 16, 2019

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